



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 112/10

Alan Smulski
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Edmonton AB T5H 1A5

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton, AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on July 28, 2010 respecting a complaint for:

Roll Number 3585007	Municipal Address 10802 99 Street NW	Legal Description Plan: 3867ET Block: C Lot: 9/10/11/12
Assessed Value \$1,139,500	Assessment Type Annual – New	Assessment Notice for 2010

Before:

Darryl Trueman, Presiding Officer
George Zaharia, Board Member
Brian Frost, Board Member

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant
Alan Smulski

Persons Appearing: Respondent
Ryan Heit, Assessment and Taxation Branch
Rebecca Ratti, Law Branch

PRELIMINARY MATTERS

Upon questioning by the Presiding Officer, the parties had no objection to the composition of the Board.

Prior to the commencement of the hearing, the parties were placed under oath.

ISSUES

The complainant disagrees with the correctness of the assessment of his subject property for the following reasons:

1. The City Assessor's comparables do not reflect the interior location of the subject which demonstrates an absence of visibility and accessibility to a major traffic artery.
2. The City comparables do not reflect the absence of services available to the subject property.

LEGISLATION

The Municipal Government Act, R.S.A. 2000, c. M-26;

S.467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

S.467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- a) the valuation and other standards set out in the regulations,

Interpretation

S.1(1) In this Act,

(n) "market value" means the amount that a property, as defined in section 284 (1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer.

The Matters Relating to Assessment and Taxation Regulation, Alberta Regulation 220/2004 (MRAT);

Part 1, Standards of Assessment

Valuation standard for a parcel of land

S.4(1) The valuation standard for a parcel of land is

- (a) market value.

POSITION OF THE COMPLAINANT

The Complainant opened his testimony by saying that his subject property was a vacant parcel which was essentially undeveloped. Although there was a building located on the site it would serve only for cold storage and that both he and the City considered it to be of nominal value. In fact the City had placed a value of \$500 on this asset and he agreed that this was appropriate. He submitted that while his property is on 99th St., in the Edmonton McAuley neighborhood, and is close to both the busy 101 Street and 107 Ave. arteries, he nevertheless had an interior location with no visibility from either 101 Street or 107 Ave. The Complainant went on to say that the older building located on his property had neither water nor sewer nor electrical services to it and that the absence of these services impaired the value of his site. To this end the Complainant provided the Board with a chart of three sales comparables located in the Central McDougall and McAuley neighborhoods and which, although of a different zoning (CB1 versus his CB2), were nevertheless indicative, after adjustments of an appropriate value for his subject property. He pointed out that his property at roughly 22,000 sq. ft. in size was similar to his comparables sales which ranged from roughly 15,000 sq. ft. to 46,000 sq. ft. in size and certainly more comparable than the City's sales comparables, all significantly smaller than the subject. He said that once his adjustments were applied, these sales reflected a value ranging from \$16.73 to \$42.33 per sq. ft. for his subject property and that would account for his locational constraints as in issue 1, as well as his lack of servicing as in issue 2.

POSITION OF THE RESPONDENT

The City Assessor presented his evidence in support of the assessment, document R1, which started with their standard explanation of the mass appraisal process, their legislative authority and the various adjustments and techniques located within the process. As well, the document contained photographs of the subject property, site maps and aerial photographs as well as charts for the specific comparables used to support the assessment. The Assessor confirmed that he had used a nominal figure of \$500 for the subject building value. The Respondent reported that the actual zoning for the subject property was CB2 and that its effective zoning for assessment purposes was also CB2. He said that each of the three comparables used by the Complainant were in CB1 districts and that this would account in part for the Complainant's lesser indicated value. To support his assessment the Assessor provided a chart of older buildings constructed on CB2 land which demonstrated unadjusted sale prices per sq. ft. for land averaging \$185.00 per sq. ft. together with the assessment amounts and Assessment to Sales Ratio (ASR) calculations indicating an average ASR of 1.09. This sales chart of older buildings provided information in neighborhoods ranging from the far east end to the far west end of Edmonton. In addition the Assessor presented a land sales chart, again with properties throughout the City of Edmonton, but which in this case were of undeveloped parcels. These sales suggested an average selling price per sq. ft. on an adjusted basis of \$87.00 per sq. ft. with their average ASR indicating 0.86. Most importantly, however, the Assessor presented a chart of nine sales properties, which were of CB2 zoning, and which were in the neighborhood of the subject property. These nine sales averaged \$74.00 per sq. ft. The Assessor contended that while the sales in the first two charts could be questioned with respect to their location and improved condition, his last sales chart indicated properties and eight very similar locations to that of the subject. He went on to say that the subject had been assessed at \$52.00 per sq. ft. and that considering all of his charts, ranges of average sale and average assessment amounts were at the lowest \$69.00 and at the highest \$198.00. Given that his most comparable chart indicated adjustment sale prices per sq. ft. of \$71.00 and average 2010 assessment amounts of \$74.00, the difference between these and the \$52.00 per sq. ft. assessment for the subject property more than compensated for the Complainant's issues of visibility and servicing.

FINDINGS

The Board finds that sales evidence from the City chart, (specifically comparing sales 2, 3 & 4 which face 101 St. against sales 7, 8 & 9, which do not have similar exposure) supports an adjustment for exposure to a City arterial roadway of 15%.

DECISION

The Board confirms the assessment of the subject property at \$1,139,500.

REASONS FOR THE DECISION

The Board is directed by the MGA and its Regulations, (MRAT), that the assessments are to be based upon market value and that a Board must not alter an assessment that is in accordance with the activities of willing buyers and willing sellers. The Board is unable to accept the evidence of the Complainant in which he has selected three comparable sales which are of a zoning inconsistent with the zoning of the subject property. The Board accepts the testimony of the

Respondent that the CB1 classification which applies to these three comparable sales will not allow as great a use density as the CB2 zoning applicable to the subject property. Higher use density is synonymous with higher value. The more important factor with respect to the subject appeal is that the complainant has chosen arbitrary percentage amounts with which to adjust his comparables sales. Without support in the form of either paired sales data or some other acceptable form of a judgment support, the board is unable to accept his resulting adjusted sale prices which range from \$16.73 per sq. ft. to \$42.34 per sq. ft.. The Board examined the unadjusted sales values and found that they range from \$43.00 to \$58.00 per sq. ft. and that these values bracketed the assessed value of the subject property. The Board understands that, as in issue number 1, 99th St., which fronts the subject property, is a less traveled street, however, in order for the Board to adjust the assessment, market sales evidence of exactly similar property is required. Similarly with respect to issue number 2, it is apparent from photographs and other evidence that the subject property lies within a fully serviced neighborhood. While there may be an absence of certain services located on the subject site that does not mean that they are not readily available to the site. Upon questioning, the Complainant was unable to provide evidence that oversizing of available services would be required for a development on the subject property. The Board understands that it is not uncommon for developers to be required to pay on-site hookup charges at the time of re-development. Given that there was no available evidence of a dollar amount which would be considered a cost to cure item as something uniquely applicable to the subject site the Board rejected the Complainant's argument with respect to this issue. In conclusion, given the evidence presented the balance of probabilities suggest that the respondent's opinion of market value is superior.

Dated this 13th day of August, 2010 at the City of Edmonton, in the Province of Alberta.

Presiding Officer

This Decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, R.S.A. 2000, c.M-26.

CC: Municipal Government Board